

GEORGIA RULE OF LAW PROJECT

Quarterly Report

October – December 2003

USAID/Caucasus/Tbilisi

Contract # 114-C-00-01-00136-00

Strategic Objective 2.2

Presented by:

The IRIS Center at the University of Maryland

University Research Corporation International



**Quarterly Report
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Introduction

This quarter was extremely critical for the development of the Georgian State. The ongoing political events had significant impact on the activities of IRIS and its grantees. The critical period of political development makes it clear that adapting quickly to the current situation is more necessary than ever. In the immediate future, parallel to reformist initiatives in the new government, we expect that the role of foreign organizations will be expanded, which will present new opportunities and challenges for IRIS.

This quarterly report should be viewed in light of recent events. As was expected, IRIS's role in pre-election activities was modest since this was outside our designated scope of work. Our activities during this time period included the donation of two fax machines to courts and software installation for 15 computers. However, IRIS closely monitored the legal and constitutional issues raised during the pre-election process and reacted accordingly when appropriate. One example involved demonstrations during the pre-election period and the decision by the Constitutional Court concerning the law on the right of free assembly.

This quarter also coincided with the annual reporting period for USAID. IRIS was actively involved in the collection of the necessary information and the creation of various documents needed for this report. In addition, IRIS representatives took part in meetings organized by the NGO Anti-Corruption Coalition.

The referendum on November 2, 2003 remained a subject of intense discussion throughout the quarter. It also became a topic for a roundtable discussion among rule of law organizations, which was held at the IRIS Georgia office in October. Among the other issues discussed at the roundtable, was the availability of free legal aid services in Georgia. See below for more details about this activity.

During this quarter the work plan for year 3 of the Georgia Rule of Law Program was had still not been approved, which has caused certain difficulties for IRIS and its grantees. In the interim, IRIS renewed short-term grant agreements twice with almost all of its partners.

Task 1: Raising Public Awareness, Raising Public Confidence

Small Grants

Winners of the IRIS grant competition titled, *Human Rights are Part of the Georgian Culture*, were recently awarded their grants in order to begin their planned activities. Under the project, the five Georgian NGOs that were awarded grants began communicating to society principles of human rights and freedoms that are reflected in Georgian culture through literature, painting, monuments to Georgian law, etc. The major concept of the project involves raising public awareness about universal principles with a

special emphasis on the fact that human rights and freedoms are not alien values, but essential parts of the Georgian cultural heritage. Project formats and agendas made by small grantees are diverse and intense in order to reach a large portion of the population and ensure that target audiences are fully reached.

One of the small grantees, *the Development and Cooperation Center - Pluralism Center*, launched a public awareness campaign by writing and publishing articles, analyzing how human rights and freedoms are reflected in different fields of Georgian culture. In the first month of the project, the Pluralism Center was busy with preparatory activities including project administration, purchasing equipment, establishing an analytical group and setting-up the office infrastructure.

Members of the project working group commenced their activities by determining the schedule for meetings of the analytical group, defining fields and trends for research and gathering legislative among other activities. Meetings of the working group were held on a weekly basis. The analytical group consists of professionals and scientists who are highly respected in Georgian society and who have contributed to the formation of Georgian civil society.

During the ensuing two months of the reporting period, group members worked on writing articles. By the end of the quarter their work on these articles was complete, and in the upcoming months, seven articles on various topics will be published online and later in the form of a book. Authors of the articles analyzed diverse aspects of the Georgian culture, taking into consideration that universal principles are a natural and integral part of the Georgian culture in terms of the history of the state, historical legal documents, rhetoric, literature, cinematography, periodicals and daily life.

The *Ozurgeti Young Teachers Union* is implementing a project titled *Ancestors and Predecessors Protecting Children's Rights*. The essential goal of the program is to raise public awareness among students of Ozurgeti with respect to children's rights. The Georgian cultural heritage will be the means of communicating human and children's rights to the younger generation in this project. According to the work plan, the activities performed will be based on specific articles of the Children's Rights Convention.

Project activities are divided into four stages, the first of which has been implemented during this quarter. This stage involved preliminary activities, such as purchasing furniture and office equipment and establishing a junior cinema and photo club.

In the initial stages, project administrators organized a meeting with Sunday school students in order to introduce the project and its purposes. The first lectures were delivered on law, literature, art, and journalism.

This quarter the Ozurgeti Young Teachers Union continued directing Karl Popper debates (The Karl Popper Debate Club was established in 2000) in which children discuss their rights.

In November and December project administrators were busy with the preliminary work for filming a documentary on children's rights, which will be the first of four planned documentaries on children's rights. The program also involves filming another documentary that will depict the entire process of the project's implementation, and will be presented in the last stage of the project. Preparatory activities for this film were also performed during this quarter.

The Ozurgeti Young Teachers Union is also involved in publishing activities, including a student newspaper entitled *Eight +1*. In the newspaper, children discuss their rights and express their attitudes towards other events developing in the country and the region.

Statistical Summary

| Ozurgeti Young Teachers Union's Publications | Copies Published | Copies Distributed |
|--|------------------|--------------------|
| Newspaper: <i>Eight +1</i> | 500 | 500 |

Another grantee under the *Human Rights are Part of the Georgian Culture* program, **Alfami**, seeks to raise public awareness through artistic exhibitions, original film and video.

During this quarter, Alfami held intense meetings with the artists and designers involved in the project. In addition, they published the first series of postcards communicating messages on fundamental constitutional rights through the works of classic and modern Georgian artists, which will be distributed widely. Thirty-two different postcards were published, including 16 cards depicting the work of well known classical painters such as Niko Piroshmanashvili, Lado Gudiashvili, and David Kakabadze, with the remaining 16 cards depicting the specially designed works of modern artists. The postcards selected for printing contain messages and short annotations from relevant constitutional norms on various rights and civil liberties, such as freedom of conscience and religion, the right to privacy, freedom of information and speech and freedom from racial or any other discrimination, in addition to anti-corruption messages. The postcards will be distributed through various channels to reach diverse segments of the population and transcend the targeted audiences that frequently fall under the focus of public awareness activities.

Filming and production of the tentatively titled film, *Lonely Scenes of Freedom*, was also completed during the reporting period. After final editing it will be presented at the Movie House in Tbilisi.

The first photo exhibition *The Victim* opened on December 26 at the "Old Gallery" and lasted for one week. The main idea behind this event was to express protest against the system, which tolerates and strengthens the practice of impunity for serious crimes, and to appeal for positive changes. Well-known Georgian photographer Irina Abjandadze presented photos of 25 persons of various ages who were killed at different times without their murderers ever being held accountable for their crimes. A special catalogue for this event was published by Alfami and disseminated at the exhibition.

The opening of the exhibition was attended by numerous well-known artists, representatives of Georgian and international NGOs and foundations, including IRIS grantees, and representatives of governmental agencies, including the Ministries of the Interior, Security and Foreign Affairs. A speech delivered at the opening by the Minister of the Interior, Giorgi Baramidze, in addition to his personal conversation, provided special sentiment to the exhibition.

During the reporting period, Alfami completed its work on the content and design of its website www.actualart.ge, which is now operational. The website contains interesting information about the organization and its activities and a digital version of all the work produced under the project.

Statistical Summary

| Alfami Publications | Copies Published | Copies Distributed |
|------------------------|------------------|--------------------|
| 32 postcards | 25600 | 15000 |
| Booklet: <i>Victim</i> | 500 | 500 |

Small grant recipient, **Association Radio Green Wave**, is implementing a project entitled *Georgian Cultural Traditions and Modern Liberal Values*, which involves the development of a radio program. The

initial stage of the project began in November and involved selecting project staff to work on topical radio programs, preparing and recording radio PSAs, and making other technical arrangements.

The program staff collected materials for programs, PSAs and radio clips, obtained and created a comprehensive database of Georgian literature, folklore, history and traditions, selected actors and defined program topics and created a list of possible guests to be invited for weekly radio programs. The texts of the radio clips were selected mainly from historical studies, Georgian legal documents from the 12th-14th Centuries and a poem by Shota Rustaveli entitled, *The Knight in the Tiger's Skin*. By the end of November, Radio Green Wave started to record the radio clips/PSAs in its studio. Ten radio clips/PSAs were recorded and aired by Radio Green Wave and its regional partners. Radio Green Wave and its regional partners then broadcast the clips eight times a day beginning on December 5, 2003. A total of 1,296 clips were aired during the quarter.

During the reporting period, Radio Green Wave and its regional partners also broadcasted eight radio programs under the *Old Georgian Law and European Liberal Values Project*. Prominent Georgian lawyers, politicians, professionals concerned with cultural studies, and historians were invited to participate in the programs which covered the following topics: Christianity as a religion that preaches tolerance, forgiveness and charity; Ilia Chavchavadze and old traditions of liberal values according to the Georgian law; the history of Georgia from the VI century B.C. (settlement of Jews in Georgia) to the XI century; David Aghmashenebeli; Niko Lortkipanidze; and examples of established western and modern values in Georgia.

Participation by citizens in the radio programs was not as high as anticipated because of the political events. However, this was not a major obstacle for implementation of the project because various sectors of the population who were in the audience were reached.

Another small grantee, **International Center for Civil Culture (ICCC)**, is implementing a project titled *Georgian Literature and Human Rights*.

As was true for the other small grantees, ICCC devoted the first stages of their project to administrative activities such as hiring staff, selecting actors for radio performances and audio clips and preparing scripts for the three episodes and 13 audio clips they will be producing. Actors then rehearsed for these performances in a studio.

Recording of the radio performances and clips will commence in January 2004. Each performance will be followed by a discussion on the topic and the performances and audio clips will be aired on *Radio 2* and repeated on *Radio 1*.

Rule of Law Segments on TV

IRIS staff attorneys contribute to raising public awareness through participating in diverse popular TV shows aired on different TV channels. As usual, during the quarter representatives from IRIS were ready to respond to the timeliest questions actively debated in Georgian society. The issues most discussed during the quarter concerned the upcoming constitutional reform.

GYLA Activities

During the quarter GYLA held fewer town hall meetings than usual due to the recent political events. However, 14 town hall meetings were held in different villages of Georgia with a total of 299 participants. These town hall meetings were held on various topics, including: administrative proceedings to handle administrative complaints (in terms of filing a complaint); human rights as defined in international and national legislation; and the Criminal Code and the Criminal Procedures Code in Georgia in regards to trafficking, women's rights, freedom of speech and information and freedom of assembly and association. The town hall meetings were mainly attended by teachers, students, local NGOs and media representatives.

The GYLA/Kutaisi office organized three town hall meetings in Poti for a special target group: teachers. The topics discussed at the meetings concerned issues of interest to the regional population: administrative proceedings to handle administrative complaints; labor disputes; human rights in international and domestic legislation; and recent amendments to the Criminal Code and Criminal Procedures Code in Georgia concerning trafficking, women's rights and gender violations, etc. A special emphasis was placed on the prevention of juvenile delinquency.

The GYLA/Rustavi office in Tetritskaro and the GYLA/Gori office in Gori held town hall meetings for the same target audience, teachers and students. Participants discussed women's rights, trafficking, juvenile delinquency-related issues and human rights, including the freedom of speech, information, assembly and association.

Freedom of information still remains one of the main topics for GYLA. On October 9, 2003 a town hall meeting/seminar was conducted on the *Relationships of Local Governmental and Self-Governmental Bodies with Regard to Freedom of Information*. Participants discussed the competence of self-governing bodies with respect to public information, types of public information, rules of requesting public information and simple administrative procedures.

GYLA's regional offices in Gori and Dusheti also held a series of town hall meetings on trafficking and women's rights, trafficking and crime prevention strategies, domestic violence and human rights as depicted in the Universal Declaration of Human Rights. An invited American Expert, Ms. Ann Gramm, conducted the meeting on trafficking.

In Telavi, GYLA decided to focus on regional problems and organized a town hall meeting for representatives of healthcare organizations. The topic of the meeting was *Healthcare Policy with Respect to State Insurance Programs*. GYLA's Dusheti office selected rights and obligations of patients as a discussion topic for the same audience.

During the quarter, GYLA continued a public awareness campaign with roundtable discussions on strategically determined topics. Roundtables were organized by the GYLA/Tbilisi office on *Freedom of Thought, Conscience and Religion* and *Human Rights Protection*, and another roundtable discussion was conducted in Kutaisi on *Human Rights and Freedoms Pursuant to National and International Legislation*. GYLA also planned to organize a workshop on problematic issues related to the Criminal Procedures Code with judges, attorneys, prosecutors and NGO representatives participating, but because of the political situation the implementation of this workshop was not possible. GYLA intends to organize this workshop in the next quarter.

The abovementioned roundtable discussion on *Freedom of Thought, Conscience and Religion* brought together diverse categories of participants representing a wide range of religious organizations and NGOs. The main topic for discussion was a legislative loophole, which leaves many issues concerning the right to religious freedom open to interpretation, such as the legal status and types of property of religious organizations, and other sensitive matters requiring urgent resolution. At the meeting, GYLA also presented a guidebook prepared and published on the same subject.

A roundtable discussion on *Human Rights Protection* was organized on December 2, 2003. In addition, GYLA presented the annual report on the implementation of the GYLA Rule of Law Project, which is mainly funded by IRIS/USAID. During the meeting participants discussed and analyzed activities that were carried out, issues surrounding legal aid, success stories and the future direction for the project.

A subject of discussion at the meeting was also the activities planned to celebrate International Human Rights Day on December 10. For instance, the GYLA/Kutaisi office held a roundtable discussion on *Human Rights and Freedoms Pursuant to Georgian and International Legislation*. Media representatives attended the meeting and participants discussed ECHR norms, women's and children's rights, and the right to freedom of speech, inheritance rights and means of avoiding human rights violations. The GYLA Tbilisi office also organized a special reception to commemorate the day.

During the reporting period GYLA was also involved in publishing activities. For instance, GYLA published the periodical *Almanakhi* with the majority of the articles discussing anticipated constitutional changes. GYLA also prepared and published a guidebook entitled *Freedom of Thought, Conscience and Religion*, which is a compilation of national and international laws governing legal relations for the enjoyment of the right to religious freedom. The guidebook reviews existing court practices, including those of the European Court of Human Rights and discusses legal status and types of religious property and the connection between religion and education.

During the quarter, GYLA also worked on finalizing a guidebook entitled *How to Request Public Information*. The publication is intended for a specific target audience, journalists and NGO representatives. Nevertheless, the publication will also be helpful for ordinary citizens who are interested in freedom of information.

The GYLA Kutaisi office published three sets of questions and answers in a local periodical:

1. November, Newspaper *Erisioni*, #11, questions and answers, 4 consultations;
2. November, Newspaper *Erisioni*, #12, questions and answers, 4 consultations;
3. December, Newspaper *Erisioni*, #13, questions and answers, 4 consultations.

Statistical Summary

| GYLA Publications | Copies Published | Copies Distributed |
|---|------------------|--------------------|
| Magazine: <i>Almanakhi</i> | 500 | 500 |
| Guidebook: <i>Freedom of Thought, Conscience and Religion</i> | 500 | 500 |
| Guidebook: <i>How to Request Public Information</i> | 1500 | 1500 |

| | | |
|--|-----|-----|
| Textbook: <i>Liberty and Personal Security</i> | 500 | 500 |
| Newspaper | 3 | NA |

| GYLA | Number of Meetings | Attendance |
|------------------------|---------------------------|-------------------|
| Town hall meetings | 14 | 299 |
| Roundtable discussions | 3 | 58 |

Liberty Institute Activities

During the reporting period, the Liberty Institute's previous contract expired. IRIS signed a new contract with the Liberty Institute, which changed certain components within Task 1. During the quarter, the Liberty Institute launched a public awareness campaign, which included regional roundtable discussions and press club sessions dedicated to strategic themes and continued publishing activities. In addition, the Liberty Institute performed other activities related to anti-corruption issues.

The Liberty Institute held 10 regional roundtable discussions in various regions throughout Georgia. However, due to ongoing political events, the discussions were not focused on the topics that the Liberty Institute had planned, but rather the emphasis of the roundtables became the human right violations that occurred during the pre-election campaign and the elections.

Roundtable discussions on the *Facts of Human Rights Violations During the Pre-election Campaign and Voting Process* were held in Gori, Kutaisi and Akhaltsikhe, among other locations. At the meetings, representatives from the Liberty Institute reviewed the Georgian legislation, which provides legal mechanisms for the protection of human rights during pre-election campaign and the voting process, they discussed instances of such violations and the pressure citizens felt from the government to vote in favor of specific party and they compared the situation in Georgia with other post-Soviet countries. Representatives of "Fair Elections" also attended some of the roundtable discussions together with other NGOs. As the group directly responsible for monitoring the elections, Fair Elections provided interesting and useful information for analyzing the elections.

The Liberty Institute also organized regional roundtable discussions on other strategic issues including one on *Human Rights and Civil Activism*, which was held on October 21, 2003 in Rustavi. NGO representatives and journalists participated in the meeting. They discussed local problems relating to corruption, ecology and budget transparency, among other issues.

Freedom of expression was the topic for a roundtable discussion organized in Poti on October 22, 2003. The subject was especially relevant to the regional population, as there have been several recent cases in Poti where this right has been restricted. Participants discussed the legislation and court practice, including the case on freedom of expression litigated at the Poti regional court.

Within the framework of the Liberty Institute's anti-corruption strategy, roundtable discussions were organized in different regions of Georgia with the aim of revealing and discussing cases of regional corruption and finding ways to eliminate these forms of corruption. For instance, a roundtable discussion was organized on December 19, 2003 in Rustavi, in which participants spoke about corruption in the Rustavi Orphanage and the violence that was perpetrated against the children. Representatives of

Rustavi's prosecutor's office also attended the roundtable and told participants that criminal prosecution had already begun in the Rustavi Orphanage case. In Gori, a roundtable discussion was devoted to the forms of corruption in the region. The head of Shida Kartli regional administration promised that the relevant agencies would take all necessary measures and that criminal prosecution will be commenced on every case, according to the new government's anti-corruption policy. Representatives from NGOs and journalists in Poti discussed cases of regional corruption and emphasized the significant role of NGOs and the media in fighting corruption. Journalists reported that in several instances where media investigations uncovered corrupt practices and documents were filed with the relevant agencies the agencies never took the necessary actions to hold persons accountable. Participants of the roundtable drafted a request to the relevant agencies asking them to respond to the documents submitted by the journalists.

Since the format of the press club sessions was changed, during the reporting period the Liberty Institute organized one press club session on *Media Self-regulation Institutions in the West*. Despite the adoption of Professional Journalistic Standards, this document did not improve the situation. In response, journalists decided that establishing a media council would be a necessary next step. In most democratic countries the media council acts as a major tool for defending the freedom of press and for processing complaints against the news media. Therefore, the topic was actively debated. Participants reviewed the experience of western media councils and self-regulation for broadcasters and discussed the possible role that a media council could play in Georgia, considering it as an alternative to the judiciary solving media-related cases. Another topic of the press club session was a *Draft Recommendation on the Right to Response in the News Media Environment*, drafted by the Committee of Ministers of the Council of Europe. Media representatives were asked to prepare their comments on the document.

During the quarter, the Liberty Institute continued its publishing activities and printed three issues of the monthly newsletter "Liberty," which is widely distributed all over Georgia. In addition, the volume and regional coverage of the newsletter was expanded and will be available to a wider audience in the future. The main focus of one issue of the newsletter was anti-corruption, in which authors analyzed diverse aspects of the challenge. Mr. Zurab Adeishvili, the newly appointed Minister of Justice, reviewed the major grounds of corruption in Georgia in his article *Kormlenie in Georgia*. The Minister also presented his views on enhancing anti-corruption activities, emphasizing the urgency of adopting a package of new anti-corruption laws. Another article in the newsletter described events that took place in Palermo in the nineties. The aim of the article is to show how different people and different cultures fight against corruption.

The newsletter also featured its regular questionnaire, but this time in a modified format to enable citizens to reveal instances of corruption in their regions. The Liberty Institute will use the information collected and ensure the involvement of public and relevant agencies in the process. The Liberty Institute intends to continue its anti-corruption campaign through publishing activities. Newsletters will regularly cover corruption related issues and present materials that demonstrate the successful experiences of other countries in overcoming this problem.

Statistical Summary

| Liberty Institute | No. of Publications | Copies Published | Copies Distributed |
|-------------------|---------------------|------------------|--------------------|
| Newsletter | 3 | 9400 | 6600 |

| Liberty Institute | Number of Meetings | Attendance |
|---------------------|--------------------|------------|
| Press Club Sessions | 1 | 20 |

| | | |
|-----------------------|----|-----|
| Regional Round Tables | 10 | 115 |
|-----------------------|----|-----|

Internews Georgia Activities

During the reporting period, Internews Georgia produced and aired three documentaries on anti-corruption and human rights issues. All three of the topics were previously addressed in PSAs produced by Internews Georgia.

The documentary titled *Breach* aired on *Rustavi 2* on October 31, 2003. The film describes domestic violence, and discusses such issues as women's rights and gender inequality in Georgia. Respondents talk about family relations and physical, economic and psychological violence, and they relate true stories about domestic violence and gender inequality, which in some cases has resulted in murder. Psychologists try to explain the impact of violence on family members and children and suggest ways for overcoming the crisis.

The documentary titled *Advocacy* depicts the relationships between representatives of law enforcement agencies and detainees. The film describes detainee rights, such as the right to legal counsel, the right to remain silent and not to plead guilty, among others, and includes video footage provided by the Ministry of Interior that demonstrates instances of detention in which law enforcement officers violate the rights of detainees and resort to violence. The documentary also reveals cases of corruption in law enforcement agencies and describes how ordinary citizens become part of this corrupt system. The key objective of the film is to motivate viewers to become aware of their rights and to appeal to a lawyer immediately in the event of detention. The documentary also includes interviews with Ms. Nino Gvenetadze, Georgian Supreme Court Justice, representatives of the Office of the Public Prosecutor General, and the Ministry of Security of Georgia. The documentary was aired by *Rustavi 2* on November 27.

Lastly, Internews Georgia produced the documentary titled *Traffic*, which discusses corruption in the Georgian traffic police system. The film features interviews with ordinary drivers and traffic police officers, including former and newly appointed authorities of the traffic police. Interviewees talk about the corruption facing citizens while using public transport, driving private cars, obtaining driver's licenses or passing police control check-points. Many of the interviewees who are experts or newly appointed police authorities also discuss possible means for overcoming the problem of corruption. This film was aired on *Rustavi 2* in December 26.

At the initiative and request of the president of the NGO "Young Georgians for Europe," the film *Breach* was shown at the seminar "The Struggle Against Violence and All Forms of Discrimination," organized with the financial support of the Council of Europe. Representatives of international organizations from Russia, the Ukraine, Byelorussia, Lithuania, Latvia, Poland, Japan and Azerbaijan were invited. The producer of the film, Natia Cholokashvili, was invited as a guest speaker. Special attention was given to the role of IRIS in promoting the rule of law in Georgia in general and its public awareness campaign in particular. Natia Cholokashvili was also invited to take part in the follow-up seminars that are to be held in different countries in 2004.

At USAID's request the grant between IRIS and Internews Georgia was extended only until the end of December 2003.

Outdoor Poster Campaign

An agreement was reached between IRIS and Magi Style to postpone the 2nd stage of the poster campaign until after the completion of parliamentary elections on November 2. However, the recent political developments prompted IRIS and Magi Style to further postpone the 2nd stage of the campaign until completion of the newly called for presidential and parliamentary elections. As such, the 2nd stage of the campaign is expected to commence in mid-April.

Public Service Announcements

Last year Internews Georgia created five PSAs, but due to ongoing political events in the countries, the launch of the PSAs was postponed. As soon as appropriate conditions exist, IRIS, together with Internews Georgia, will develop a broadcasting schedule and begin negotiations with television stations.

List of Deliverables

Deliverables in Electronic Format

1. Agenda and list of participants from GYLA's roundtable discussion on *Freedom of Thought, Conscience and Religion*, December 2, 2003, Tbilisi;
2. Agenda and list of participants from GYLA's roundtable discussion on *Human Rights Protection (the first theme)* and the *Report on Activities Implemented within the GYLA Rule of Law Program in the Year 2003 (the second theme)*, December 16, 2003, Tbilisi;
3. Agenda and list of participants from GYLA's roundtable discussion on *Human Rights* (meeting organized for media representatives), December 10, 2003, Tbilisi;
4. Agenda, list of speakers and list of participants from the Liberty Institute's press club session on *Media Self-regulation Institutions in the West*, December 5, 2003;
5. Agenda and list of participants from the Liberty Institute's roundtable discussion on *Human Rights and Civil Activism*, October 21, 2003, Rustavi;
6. Agenda and list of participants from the Liberty Institute's roundtable discussion on *Freedom of Expression*, October 22, 2003, Poti;
7. Agenda and list of participants from the Liberty Institute's roundtable discussion on *Facts of Human Rights Violations During Pre-election Campaign and Voting Process*, November 13, 2003, Gori;
8. Agenda and list of participants from the Liberty Institute's roundtable discussion on *The Facts of Human Rights Violations During the Pre-election Campaign and Voting Process*, November 18, 2003, Kutaisi;
9. Agenda and list of participants from the Liberty Institute's roundtable discussion on *The Facts of Human Rights Violations During the Pre-election Campaign and Voting Process*, December 05, 2003, Akhaltsikhe;
10. Agenda and list of participants from the Liberty Institute's roundtable discussion on *The Facts of Human Rights Violations During the Pre-election Campaign and Voting Process*, December 11, 2003, Kutaisi;
11. Agenda and list of participants from the Liberty Institute's roundtable discussion on *Corruption (Rustavi Orphanage Case)*, December 19, 2003, Rustavi;
12. Agenda and list of participants from the Liberty Institute's roundtable discussion on *Corruption*, December 20, 2003, Poti;

13. Agenda and list of participants from the Liberty Institute's roundtable discussion on *Corruption*, December 26, 2003, Gori;
14. Agenda and list of participants from the Liberty Institute's roundtable discussion on *Corruption*, December 19, 2003, Telavi.

Deliverables in Hard Copy

1. The Liberty Institute's Newsletter *Liberty*, #10 (22);
2. The Liberty Institute's Newsletter *Liberty*, #11(23);
3. The Liberty Institute's Newsletter *Liberty*, # 12(24);
4. GYLA's magazine *Almanakhi*, #19, December;
5. GYLA's guidebook *Freedom of Thought, Conscience and Religion*;
6. GYLA's guidebook *How to Request Public Information*;
7. Internews's documentary *Breach*;
8. Internews's documentary *Advocacy*;
9. Internews's documentary *Traffic*;
10. CD with radio programs and radio clips prepared by Association Radio Green Wave;
11. Alfami's campaign postcards
12. Alfami's booklet *Victim*.

Task 2: Support to Legal Aid Organizations

Legal Aid Expert

As was reported in the previous quarter, IRIS hired an experienced legal aid expert to assist in implementation of the component of the IRIS work plan related to supporting local NGOs that provide free legal consultations and representation. After Georgian Legal Aid Centers developed into mature and well-established organizations, support was still needed to ensure their sustainability and to ensure greater adaptability and organizational stability in the long run. The assignment was to work with legal aid centers to improve their internal and case management systems and to conduct trainings for lawyers involved in the legal aid projects funded by IRIS, as well as other NGOs providing free legal services to various segments of the Georgian population.

The first month of the assignment was spent assessing the current internal and case management structures of GYLA, Article 42 and the Liberty Institute through interviews, review of written materials, and site visits to observe operations in Tbilisi and the regional offices. By the end of September tentative recommendations were prepared for GYLA, Article 42 and the Liberty Institute, which served as the basis for further analysis of possible means for improving the management and delivery of legal services. On a broader level, the recommendations also sought to ensure the enhanced efficiency and effectiveness of the organizations so that they would be able to protect fundamental rights and liberties guaranteed under the Constitution and relevant international legal norms from potential state abuse and widespread corruption in administrative and law enforcement agencies, including the judiciary. After reviewing all relevant information and materials relating to the work of GYLA, Article 42 and the Liberty Institute, and performing a comparative analysis of well-established practices of similar organizations in the United States, it appeared that the cornerstone of recommendations was the improvement of internal management

system of these organizations with emphasis on the importance of comprehensive and flexible data collection systems.

Comprehensive and integrated data collection systems for tracking beneficiaries and monitoring the quality of work being produced by all staff attorneys are very important for the effective management of legal aid centers as well as for their long term organizational development. Such systems enable managers to analyze data in different formats to meet emerging client needs and to spot recurrent legal problems among different client populations. From this analysis, new strategies can be developed to address those problems and strategies will be based on sound statistical evidence. Demonstrations of two major models used by legal services programs in the US – Kemp’s Prime Case Management and PIKA Case Management Systems – as well as a data collection system designed for the Public Defender’s Office of Georgia were made to IRIS-funded legal aid centers for their review. After detailed review of these programs, PIKA was considered to be the most suitable program based upon its comprehensiveness and greater flexibility in use.

Additionally, two roundtables were organized for the legal aid organizations. On October 18, IRIS organized training on legal aid case management information systems (34 participants) in the Tbilisi office of GYLA. The training session was primarily focused on the benefits of an integrated case management system, case management systems used in the US with the specific focus on PIKA, and the type of information a local case management system should contain to best respond to local needs. The training was primarily conducted for IRIS-funded legal aid centers, including staff from the Liberty Institute involved in fact-finding activities and personnel from the ABA/CEELI-funded project of Article 42. Feedback obtained through discussions and questionnaires on the types of information that the local data collection system should contain was very informative and useful for further developing our recommendations.

A additional roundtable on establishing effective legal aid centers was organized by IRIS on October 24 for a broader spectrum of Georgian legal aid organizations, such as Union 21st Century, Justice and Liberty, the Center for the Defense of Constitutional Rights, Article 42 and GYLA (24 participants). The roundtable served as a forum for interactive discussions on issues of critical importance for the effective management of legal aid organizations, such as organizational structure and its relation to mission statement, management of human and material resources, collaboration with similar organizations, accountability to donor organizations and effective public relations.

On October 29, IRIS hosted a roundtable for rule of law organizations, during which one of the main subjects for discussion was the outline of a legal aid system in Georgia and the realities and perspectives of its development. Presentations on IRIS’s legal aid-related activities, the review of legal aid-related legislation in Georgia and its practical implementation, as well as the role and scope of the work performed by local legal aid centers funded by donor organizations, were delivered by a IRIS Georgia staff Attorney and the Legal Aid consultant. The roundtable proved to be an effective forum for initiating active discussion on legal aid-related issues and future prospects in this field among rule of law donor organizations.

By the end of the reporting period the consultant had completed his final report containing detailed recommendations for the improvement of internal management systems in legal aid centers funded by IRIS. Implementation of these recommendations will be very important for ensuring the sustainability of the legal aid centers and for improving their effectiveness in delivering quality legal services to vulnerable sectors of the population.

GYLA Activities

GYLA continued to provide legal aid through consultations (telephone, private, post boxes and visits of the mobile legal aid clinics) and representation in court. However, the political unrest preceding and following the parliamentary elections on November 2 affected GYLA's legal aid activities under Task 2. Visits by the mobile legal aid clinic were most affected. During the pre-election period, it proved to be very difficult to organize meetings with members of the local population in many villages due to the tense political situation. Local authorities who supported the government tried to avoid communicating messages from opposition parties to the local population. These authorities were suspicious of anybody meeting with citizens and did not hesitate to prevent GYLA's attorney from meeting with local residents. As a result, GYLA was forced to reduce the number of visits made by the mobile legal aid clinics to the regions. The 2-3 day field visits were particularly effective.

Due to the events that unfolded after the parliamentary elections, activities of the mobile legal aid clinic were also reduced. Nevertheless, GYLA managed to conduct 62 visits of the mobile legal aid clinic and provide 1,702 consultations to the local populations in the regions. As in the previous quarter, issues of major concern to the local population were those relating to the execution of court judgments, criminal procedure, the Civil Procedures Code, access to information in administrative agencies, ways of holding public officials accountable, human trafficking, inheritance and land ownership.

Despite the uncertain political situation in the country, the caseload of GYLA's legal aid centers increased. During the reporting period GYLA worked on 133 cases (see statistical breakdown below in the statistical summary). GYLA provided assistance in drafting letters of request to release public information and in registering administrative complaints. In addition, 45 administrative decisions were rendered as the result of GYLA's representation before administrative agencies, with 41 decided in favor of the clients.

The following summaries of two ongoing constitutional cases serve as examples of the strategic high-impact cases handled by GYLA's legal aid centers can have. In October, GYLA initiated a constitutional court case against Articles 243, 247 (3-4), 251 of the Administrative Violations Code and Article 9 (e) of the Law on Police. Each article deals with administrative detention and private search. The articles were challenged as being inconsistent with Articles of the Constitution [18 (1, 2, 3 and 7) and 42 (1)].

The challenged articles of these laws provide for the possibility of detention in violation of Constitutional protections. In addition, under these laws persons under administrative detention are not provided with the right of appeal to the Court of relevant jurisdiction, as guaranteed by the Constitution. These issues have become particularly relevant since the Constitutional Court, responding to an appeal submitted by GYLA on a number of similar articles in the Criminal Procedures Code declared the articles unconstitutional and void. While the Criminal Procedures Code has been revised to conform to the requirements of constitutional law, the norms of the Administrative Violations Code have remained intact and continue to regulate administrative detentions executed by law enforcement agencies in an unconstitutional manner. Therefore, the favorable ruling of the Constitutional Court is extremely important for eliminating this inconsistency, and will leave no room for the arbitrary use of loosely regulated administrative detentions by law enforcement agencies.

The Constitutional Case, *Georgian Young Lawyers' Association and Irakli Sesiashvili v. The Parliament of Georgia and the Parliament of the Autonomous Republic of Adjara*, is very important for the protection of freedom of expression and assembly. The laws that were disputed under this case include the Law of Georgia on the Press and other sources of Mass Media (Art. 6, part one, sentence one; Art. 9, last

sentence; Art. 20 (1); Art. 27, (2)) and the Law of the Autonomous Republic of Adjara on the Press and other sources of Mass Media. Relevant articles of the Constitution of Georgia, which the challenged provisions contradict, relate to freedom of expression, right to freely receive and disseminate information, freedom of association and right to property (see articles 19 (1; 2; 3); 21 (1; 3); 24 (1; 2; 3; 4); 26 (1; 6); 30 (2)). To name a few examples, these laws place broad restrictions on the activities of journalists by not distinguishing between the notion of fact and opinion, which provide different levels of responsibility for the correctness and content of the materials published and/or disseminated through other means of mass media.

Article 22 (f) of the Law of the Autonomous Republic of Adjara also prohibits journalists from conducting journalistic investigations. Moreover, limitations under these laws for establishing various means of mass media, which are based upon age and nationality, are inconsistent with the Constitution. For example, the Law of the Autonomous Republic of Adjara on the Press and other sources of Mass Media prohibit nationals and legal persons of other countries, as well as stateless persons, from establishing sources of press and other mass media communication, in violation of Articles 24 and 30 of the Constitution.

Criminal cases formed the majority of the total caseload of GYLA's legal aid centers, most of which demonstrated serious violations of procedural rights and abuse of power by law enforcement agencies. The case of Mirian Chelidze, who was accused of committing an assault, provides a good example of a criminal case substantiated by the fabricated evidence of the prosecution. After reviewing case materials, it became evident that the witness testimonies submitted by the prosecution as the main incriminating evidence against Mirian Chelidze, were false. Attorneys from GYLA's legal aid center managed to discredit prosecution witnesses and force them to admit during the court hearing that their previous testimonies were inaccurate. In the end, the District Court of Mtsketa returned the case for additional investigation to the Procuracy and released the defendant from the detention facility.

The case of Rusudan Shavishvili is a rare example of a criminal case on domestic violence, initiated by a wife against her husband. Unfortunately, in many cases victims of domestic violence do not come forward to report their experiences. Criminal proceedings against abusive husbands are even rarer. As this case demonstrates, the situation for women is often further aggravated by the fact that when women do come forward with their stories, they often do not receive the proper protection or redress provided by law due to the widespread corruption in law enforcement agencies and the judiciary.

In May 1997, Giorgi Sharmanashvili physically abused and inflicted physical injuries upon his wife, Rusudan Shavishvili. Mrs. Shavishvili reported this incident to the police, which initiated a criminal case against Mr. Sharmanashvili. In addition to initiating a criminal case, Mrs. Shavilishvili filed a civil lawsuit requesting payment of alimony by Mr. Sharmanashvili. Her request was approved and from December 3, 1998 Mr. Sharmanashvili was obliged to pay alimony in the amount of 50 Lari. Mr. Sharmanashvili consistently disregarded his duty and even sold his property to avoid the possibility of it being taken from his assets. For this reason, a separate criminal case was initiated against him. On November 14, 2002, after investigations and lengthy court proceedings which lasted four years were completed in the District Court of Gldani-Nadzaladevi, G. Sahrmanashvili was declared innocent on all counts. As a last resort, in June 2003 Mrs. Shavishvili applied to GYLA's legal aid center for assistance. GYLA then won an appeal of the decision of the District Court in Gldani-Nazaladevi to the Tbilisi Court of Appeals. The Court of Appeals annulled the earlier decision and convicted Mr. Sharmanashvili under Articles 118 and 176 of the Criminal Code of Georgia and sentenced him to imprisonment for the period of 1 year and 6 months. Moreover, he was forced to pay 5000 Lari in fines to Rusudan Shavishvili within a 6 month period.

There were a number of administrative cases relating to the Freedom of Information Chapter of the General Administrative Code. To monitor state expenditures, GYLA, Transparency International–Georgia, the Georgian Young Economists Association and the Public Development Institute have been implementing a joint project, which required that public information be requested from the Kvemo Kartli regional administration. In violation of Articles 37, 38 and 40 of the General Administrative Code, in some cases the regional administration provided no response and in others provided only incomplete information. GYLA appealed to the court and, the regional administration decided to settle with the plaintiffs and resolve the issue without court proceedings. The regional administration pledged to provide all requested information as required by the General Administrative Code.

During the quarter, the Appeals Court made its decision on the case of *GYLA, the Georgian Young Economists Association, the Georgian Center of Business Law, the Public Development Institute the, United Nations Association of Georgia, the Caucasus Institute of Peace, Democracy and Development and the Free Press Association v. the Georgian Ministry of Finance*. Aside from its substantive implications, this case demonstrated the broad and close collaboration of Georgian NGOs towards protecting their freedom from unreasonable and unconstitutional interference from the government.

Pursuant to Article 21, clause 19, sub clause “b” of the Georgian Law on the State Budget 2003, the Executive Branch of the government is obliged to record all grants donated under contracts (memorandums) by foreign governments, international organizations, legal entities and natural persons to Georgian ministries and state agencies, as well as goods received through humanitarian aid, and to develop rules for their proper inclusion in the state budget. Based on this law, on March 13, 2003 the Minister of Finance issued by Decree #162 instructions on the inventory of grants and goods received through humanitarian aid and their inclusion in the state budget. However, the Ministry of Finance went far beyond the requirements specified under the article of the Law on State Budget. Instruction, in violation of the Law on State Budget of Georgia, as well as Article 17, clause 2 of the Law on Normative Acts and Article 5 and 6 of Georgian Law on Accounting and Reporting. By extending the scope of the law they created a mechanism for the financial accountability of NGOs to the government. GYLA, in cooperation with a broad spectrum of partner organizations, appealed to the court. On October 7, 2003, the Tbilisi Court of Appeals declared that the contested provisions of the decree were unlawful and void.

Statistical Summary

| | Total | Civil | Criminal | Admin. | Const./strategic |
|--|--------------|--------------|-----------------|---------------|-------------------------|
| Overall number of citizens represented in Courts | 133 | 11 | 69 | 48 | 5 |
| Overall number of citizens represented before administrative agencies. | 45 | | | | |

| | Total | Civil | Const/Strategic | Criminal | Admin. |
|--------------------------------------|--------------|--------------|------------------------|-----------------|---------------|
| New Cases | 22 | 1 | 1 | 11 | 9 |
| Court Decisions | 34 | 5 | 0 | 15 | 14 |
| Won Cases | 34 | 5 | 0 | 15 | 14 |
| Lost Cases | 0 | 0 | 0 | 0 | 0 |
| Decisions of Administrative Agencies | 45 | | | | |

| | | | | | |
|--|----|--|--|--|--|
| Favorable Decisions of Administrative Agencies | 41 | | | | |
| Unfavorable Decisions of Administrative Agencies | 4 | | | | |

Consultations

| | Telephone | Private | Mobile legal aid | P.O. Boxes | Newspapers | Total |
|-----------------|------------|-------------|------------------|------------|------------|-------------|
| Tbilisi office | N/A | 743 | 153 | 42 | 0 | 938 |
| Kutaisi office | 392 | 567 | 281 | 40 | 0 | 1280 |
| Gori office | 39 | 822 | 518 | 0 | 0 | 1379 |
| Rustavi office | 306 | 335 | 304 | 8 | 0 | 953 |
| Ozurgeti office | 43 | 141 | 192 | 19 | 0 | 395 |
| Telavi office | 0 | 260 | 207 | 0 | 0 | 467 |
| Dusheti office | 18 | 74 | 47 | 0 | 0 | 139 |
| Total | 798 | 3198 | 1467 | 109 | 15 | 5551 |

Article 42 Activities

On the night of October 28, 2003, several unidentified persons broke into the office of the IRIS-funded legal aid center of Article 42 of the Constitution. Five computer processors, which were extremely important to their work, were the only items stolen, leaving the project office with only one computer. In response, IRIS advised grantees to improve their security practices and to regularly back up computer data.

The burglary, which is currently under police investigation, significantly undermined the ability of the project to operate; all materials recorded in the stolen hard disks, including reports, motions, case descriptions, etc., were lost. Although left without computers, Article 42's lawyers managed to recover essential case materials and continue their work on ongoing cases.

In November 2003, Article 42 was asked to reduce the number of new cases taken on because of the short-term duration of their new contract with IRIS. The new contract covers only a three-month period, from December 1, 2003 to February 29, 2004. Therefore, without having any definite prospects for its renewal, it would have been inappropriate to take on new cases that could last for a much longer period than the term of the contract. As a result, from 36 applications only 14 were accepted that met selection criteria and at the same time had reasonable prospects of timely resolution.

The above-mentioned factors, coupled with the ongoing political events, led to the reduction of Article 42's caseload during the reporting period. The political situation in the country had an impact on the number of consultations as well, which were also down during the November-December period.

Statistical summary:

| Number of consultations provided during the reporting period: | In Person: | Telephone: | Written: |
|---|------------|------------|----------|
| | 23 | 12 | 1 |

Number of cases in progress

20

| | |
|---|----|
| Number of new cases | 14 |
| Number of cases completed during the reporting period | 2 |
| Number of successfully completed cases | 2 |

Nature of Cases (since a case may be initiated on several counts, the total number of cases given in the statistical breakdown may be more than the number of ongoing cases)

| | |
|---|---|
| Crime against life | 1 |
| Crime against health | 3 |
| Crime against property | 9 |
| Drug-related offenses | 5 |
| Crime against sexual freedom | 0 |
| Crime against public security and order | 5 |
| Crime against human rights and freedoms | 2 |
| Transport crime | 1 |
| Crime against the state | 0 |
| Crime against the military | 1 |
| Crime against judicial authority | 0 |

Defendant Statistics

During the reporting period, Article 42 assisted 87 people, including:

| Male | Female | Minor | Employed /with income | Unemployed/ without income | With higher education | With secondary education |
|----------|---------------------|-------|--------------------------|-------------------------------|--------------------------|--------------------------------|
| 79 | 8 | 0 | 24 | 63 | 15 | 72 |
| Georgian | Other nationalities | | IDPs | Convicted | Defendant | Victim |
| 70 | 17 | | 1 | 65 | 21 | 1 |

Liberty Institute Activities

Drastic political changes affected the Liberty Institute's activities (Task 2). Fact-finding activities mainly focused on violations of freedom of assembly and speech, and monitoring of the election campaign and electoral fraud. The reporting period also coincided with the transition from the previous year's grant to the new 3-month grant, requested by USAID.

The Liberty Institute was actively involved in election monitoring before and during the election campaign of 2 November. Such monitoring uncovered numerous violations. Adjara experienced the most violent restrictions of freedom of assembly. Restrictions were so strict that opposition parties were barely able to mount a campaign. Local residents who openly debated current issues were subjected to raids by secret police and their lives were threatened. Some activists were kidnapped and savagely beaten, as was

the case with students who raised their voices against the regional government. Adjara was not the only region to experience these problems. Problems of freedom of assembly were frequently encountered in regions mainly populated by ethnic minorities. For example, in the region of Kvemo Kartli, police raided the entire meeting organized by local Azeris. “Kmara” demonstrations were dispersed in Poti, Sagarejo, Borjomi and Kutaisi. The raids were conducted by police officers and were always followed by physical assault on the activists.

In Tbilisi, police were actively chasing “Kmara” activists trying to prevent them from organizing demonstrations. During a demonstration in front of the State Chancellery, the activists were arrested and administrative charges were brought against them. Mtatsminda - Krtsanisi District Court approved the charges and accused the activists of administrative misconduct.

There were cases of discrimination at workplaces by state officials and supervisors of employees supporting the opposition and/or involved in the civil resistance movement. For example, the Chair of the Parliamentary Committee on International Relations, Zviad Mukbaniani, prevented Giga Chkeidze, an intern, involved in the civil resistance movement, from executing his duties and even using his pass to enter the Parliament building. The deputy director of Poti Hospital threatened everyone interested in participating in demonstrations with dismissal.

The attacks on free media during the election period did not cease even after the revolution. The most dangerous attack was carried out on November 29, when an anti-tank missile was fired at the Rustavi 2 office. Earlier, unidentified persons fired a number of shots at the apartment of Luba Eliashvili, a journalist from TV Company *Iberia*. Broadcasting Company *Kavkasia* was restricted. In addition, journalists from Rustavi 2 were not allowed to work in Adjara and broadcasting of Rustavi 2 was also restricted.

The Liberty Institute provided assistance to the newspaper *Batumelebi*, which was illegally persecuted by the Adjarian Ministries of Health and Agriculture and the Department of Veterinary. They brought unfounded libel action against the newspapers *Batumelebi* and *Tribuna*, as well as the journalist Emzar Diasamidze, and requested 100,000 Lari in punitive damages. The District Court order newspaper property confiscated. The Liberty Institute was actively involved in the defense of the newspapers. A roundtable discussion was organized in Tbilisi to publicize the issue. Liberty Institute assisted the newspaper *Batumelebi* in writing their appeal of the District Court's decision to the Council of Justice against the Judge Paghava for unjustified and illegal seizure of property. As a result of the campaign, the court decision was reversed and Judge Paghava was dismissed from his position.

There were several violations of freedom of speech in Poti. Poti's local government continuously intimidated journalists. Unidentified persons burgled the office of the newspaper *Poti*, which, in cooperation with local NGO Public Center for Freedom and Democracy, implements an anticorruption project *Where our money goes*. Under this project, the newspaper was regularly publishing the financial declarations of state officials. As a response to this incident, Liberty Institute, in cooperation with other NGOs, released a statement and organized a protest rally in Poti. Liberty's Poti regional office held a roundtable discussion addressing this issue.

In addition, the fight against corruption became one of the main focuses of Liberty Institute's fact-finding activities under Task 2. During the reporting period, Liberty's regional offices paid special attention to the identification of and active fight against corrupt practices. Recently, the Liberty Institute introduced an innovative method of collecting information on that issue through its monthly newsletter. The last page of the newsletter contains a questionnaire offering readers the opportunity to provide specific facts on

corrupt officials and their activities. Feedback from readers of the newsletter is well established, so the questionnaire is expected to be an effective means of learning about corrupt practices, which Liberty will then investigate.

The most successful example of anti-corruption activities of Liberty Institute is the case of Rustavi Orphanage House. Information on corruption and psychological terror upon children in this orphanage was published in print and electronic media. The Prosecutors' Office followed up with a criminal case under Article 333, Part 1 (Misuse of Official Authority) of the Criminal Code against Mrs. Irene Imerlishvili, Director of Orphanage in Rustavi. Children declared that Irene Imerlishvili, her son (a former police officer), and other employees of the Orphan House, often beat them. One of the pupils remembered how he was hit with a gun by one of the policeman within the office of the Director. Other pupils and employees of the Orphanage shared similar examples.

In addition, funds allocated by the state budget and private donations were misused. Boxes of new clothes were found in the cellar of the Orphanage, while pupils were dressed in ragged, dirty clothes. The children's registry was artificially inflated, which enabled the Director to get additional funds. Coverage of the situation by Rustavi 2 resulted in public outrage. The Prosecutors' Office was immediately involved in the case, after which the Ministry of Education terminated the authority of the Director. As a follow up, Liberty Institute initiated the creation of a governing board for the orphanage at a round table meeting on 19 December.

Research on *Amicus Curiae* Institution

During the reporting period, Liberty Institute started researching other countries' legislation and practice of *amicus curiae*; relevant provisions and practice of international tribunals, and the relevant provisions of Georgian legislation. The main purpose of the study is to analyze whether the introduction of this practice is desirable and feasible in the Georgian legal system. Potential uses include curbing judicial corruption, and raising the quality of judgments, especially on high-impact cases, enabling greater participation of the public in court proceedings and ensuring a better defense of constitutional rights and freedoms. The research will provide recommendations on the above-mentioned questions and, if found appropriate, on implementation.

Civil Liberties News Service

The Liberty Institute arranged for the establishment of the Civil Liberties News Service and Alert Network, in addition to improving their website. These activities will enable the realization of Liberty's innovative approach toward fact-finding activities under the new grant agreement. Information collected through the Liberty Institute network on human rights violations and corrupt practices will be immediately disseminated through online services in Georgian and English, whereas *Human Rights Review*, currently published quarterly, will become more analytical.

List of Deliverables

Deliverables in Electronic format

1. Final Report of Legal Aid Expert, Joe Dailing (Task Order #1 with Court Management Associates), on Management Recommendations for Legal Aid Programs in Georgia.
2. Agenda and speaker list of the workshop on Legal Aid and Case Management Systems held on October 18, 2003.

3. Agenda and speaker list of the Roundtable on Effective Legal Aid Organization held on October 24, 2003.

Task 3: More Open and Transparent Government or Administrative Process

IRIS is implementing Task 3 mostly in-house and through two of its grantees: United Nations Association of Georgia (UNAG) and Young Economists Association of Georgia (AYEG).

In view of last Fall's political events, IRIS did not conduct roundtable discussions on FOI issues, although it provided consultation through its office in the Ministry of Justice. Consultations and meetings on the General Administrative Code were arranged mostly for representatives of the Ministry of Justice, the Ministry of Transport and Communications, and the Ministry of Labor, Health and Social Security.

IRIS is working with the State Antimonopoly Service for the purpose of providing technical assistance to administrative agencies in establishing FOI offices. Such cooperation follows training organized by IRIS for Service staff. In view of the impending reforms within the executive branch, IRIS temporarily suspended operation in that field, but it will renew its effort as soon as possible.

During the reporting period, IRIS's office at the Ministry of Justice continued distributing two kinds of checklists to public agencies: Enactment of Administrative Acts and Enactment of Administrative Decrees in accordance with the General Administrative Code.

IRIS works with many organizations to accomplish Task 3-related goals. One such activity this quarter involved drafting comments for a report on transparency and the implementation of Freedom of Information. This work was conducted under the auspices of the Anti-Corruption Coalition, an NGO, which drafted a report as an alternative to the Anti-Corruption Bureau's (ACB) report to ACNET (Anti-Corruption Network for Transition Economies).

During the reporting period, IRIS continued working with state agencies on legal issues. One such issue was executive power with regard to administrative claims. IRIS started working on this last year, when doing research on presidential authority to repeal acts of executive agencies. Constitutional Law principles guided the research. The research was suspended last year due to ongoing personnel changes in the Public Service Bureau, but was launched again during this quarter.

The Public Service Bureau drafted and sent to IRIS several proposals on increasing the effectiveness of the mechanism for resolving public service disputes. In order to identify the problems, several meetings were held with Public Service Bureau representatives. In the process of examining each problem, it became clear that further research of administrative appeal at the presidential level was necessary.

IRIS prepared an extensive report on the Authority of the President of Georgia regarding Examination of Administrative Claims and sent it to the Public Service Bureau at the State Chancellery. This document outlines current legislation in this area and makes recommendations on how to resolve issues.

UNAG Activities

UNAG, like other IRIS grantees, performed its activities according to its previous one-year grant and the new 3-month grant (beginning 1 December) requested by USAID. During the reporting period, some internal changes were made in the project's working group. Regional coverage was extended to 8 new

locations and appropriate changes were made in regional staff. As a result of these changes, a two-day working seminar (December 15-16, 2003) was held in UNAG's office with all appropriate staff to review project goals and implementation of activities.

During the quarter, UNAG undertook the updating of existing instruments and the creation of new ones including statistical reports, questionnaires, and special guidelines for completing the questionnaires. UNAG also prepared *Guidelines for Approaching Public Agencies* and *Guidelines for Implementing Recommendations* in public institutions and the monitoring of this process. In addition, UNAG updated and corrected the Russian version of Chapter 3 of the General Administrative Code. The Russian version will be used for public agencies in Samtskhe-Javakheti and Kvemo Kartli regions.

Several meetings were held with the State Service Bureau aiming to lobby for the model report of December 10 concerning the Freedom of Information provisions. According to a preliminary agreement, the State Chancellery would send the model document to regional public agencies for subsequent reporting. The State Service Bureau provided UNAG with existing reports submitted by public agencies before December 10, 2003 in order to obtain their recommendations and analytical reports.

During the reporting period, UNAG prepared an electronic public registry using Microsoft Access. The registry, prepared in accordance with the General Administrative Code's Freedom of Information Chapter, will assist public servants in registering information held by public agencies.

UNAG had a number of publications this quarter:

a) *Guidelines for Managing Public Registries*, published in November 2003. This publication contains a model Public Registry and guidelines for completing the Registry. The guidelines are developed in accordance with the requirements of Article 35 and other provisions of the General Administrative Code's Freedom of Information Chapter. The guidelines also lay down the procedures of registering a document in the Public Registry and list all required information.

b) UNAG's project team printed four different bookmarks each on a topic from the Freedom of Information Chapter. The bookmarks are designed as information tools for public servants, providing them with additional information concerning the implementation of Chapter 3 of the General Administrative Code.

c) A special Q&A brochure was published in November 2003. One side of the brochure contains a knowledge test about Chapter 3 on one side and answers on the other side.

d) In December 2003, UNAG published a 2004 wall calendar. The calendar is intended for public institutions. It consists of 12 topics (one for each month) extracted from the Freedom of Information Chapter.

e) A brochure about UNAG's project activities and possible activities for 2004.

| UNAG Publications | Copies Published | Copies Distributed |
|---|------------------|--------------------|
| Guidelines for Managing Public Registry | 300 | 295 |
| Bookmarks | 2000 | 1760 |
| Brochure: Q&A | 1000 | 520 |
| Wall calendar | 1500 | 1450 |

| | | |
|---|------|-----|
| Brochure: <i>Implementation of the Freedom of Information Chapter. Plan of activities for 2003-2004</i> | 1000 | 650 |
|---|------|-----|

AYEG Activities

During the reporting period, AYEG published a guide on licenses and permits for medical and pharmaceutical activities (detailed information on this guide was provided in the previous quarterly report). Due to demand for the guide on food and tobacco manufacturing, AYEG re-published it during the quarter.

After completing the guide, project staff started work on licensing of veterinary activities. Project experts analyzed applicable regulations and prepared a list of necessary documents. Meetings were held at the Department of Veterinary. Project experts drafted the text and appendixes based on the analysis of the laws, plus documents and comments received from Department representatives. At the same time, AYEG compiled a list of people who would participate in a workshop in Bakuriani. The workshop was held from 18-23 October. Following workshop discussions, the final text of the guide, appendixes and other documentation were prepared. The guide contains a detailed description of license/permit procedures.

Along with state agencies, private business must be prepared for new regulations with regard to licenses and permits. This is a crucial condition to reduce corrupt practices in this area. This component has therefore become one of AYEG's main activities. During the reporting period, AYEG held 4 conferences (December 4, 5, 19, 26) for entrepreneurs concerning licenses and permits. The goals of the conferences were:

- Promotion of the guides;
- Provision of detailed information on issues, and
- Identification of problems facing entrepreneurs in this field.

To reach their goals, AYEG selected a target group for each conference and prepared relevant material. The target groups were as follows: December 4: food and tobacco manufacturers; December 5: mineral water, alcoholic and non-alcoholic drink manufacturers; December 19 and 26: entrepreneurs involved in medical and pharmaceutical activities.

The conferences achieved the following:

- Entrepreneurs received detailed information about the license/permit procedures and required documentation;
- Entrepreneurs and state agency representatives agreed to collaborate on a package of legislative amendments to develop the license/permit regulating norms.
- Information given to license/permit issuing agencies about the importance of administrative or other punishments for violations (with consequent laws and articles), and
- An agreement was reached with the permit-issuing agency to optimize the types of the permits.

| AYEG Publications | Copies Published | Copies Distributed |
|---|-------------------------|---------------------------|
| Guide <i>How to Get a License and Permit in the Medical and Pharmacy Sphere</i> | 2000 | 1620 |

| | | |
|--|------|------|
| Guide <i>How to Get a License and Permit in the Veterinary Sphere</i> | 2000 | 1280 |
| Guide <i>How to Get a License and Permit in the Food and Tobacco Sphere</i> (second edition) | 2000 | 523 |

List of Deliverables

Deliverables in Electronic format

1. Agenda of the Working Meeting held at UNAG's office on December 15-16, 2003 (UNAG);
2. Number of Participants of the Working Meeting held at UNAG's office on December 15-16, 2003 (UNAG);
3. Agenda and number of workshop participants for the representatives of the Veterinary Department of the Ministry of Agriculture and Food on December 18-23, 2003 (AYEG);
4. Agenda and number of conference participants for entrepreneurs of Food and Tobacco sphere on December 4, 2003 (AYEG);
5. Agenda and number of conference participants for entrepreneurs of Food and Tobacco sphere on December 5, 2003 (AYEG);
6. Agenda and number of conference participants for entrepreneurs of Medical and pharmacy sphere on December 19, 2003 (AYEG).
7. Agenda and number of conference participants for entrepreneurs of Medical and pharmacy sphere on December 26, 2003 (AYEG).

Deliverables in Hard Copy

1. UNAG wall calendar for 2004 (UNAG);
2. *Implementation of the Freedom of Information Chapter. Plan of activities for 2003-2004* (UNAG);
3. 4 Bookmarks on the Freedom of Information Chapter (UNAG);
4. Q&A Brochure about the Freedom of Information Chapter (UNAG);
5. Guidelines for Managing Public Registry (UNAG);
6. Guide: *How to Get a License and Permit in the Veterinary Sphere* (AYEG);
7. Guide: *How to Get a License and permit for the Medical and Pharmacy sphere* (AYEG).

Task 4: Support for Legislative Drafting

Due to the parliamentary elections, followed by the revolution and changes in government, the last quarter of 2003 did not include intensive legislative drafting. New parliamentary elections are planned for the end of March 2004, and until then all political forces will be involved in the pre-election campaign. The slow trend in lawmaking will continue in the first part of 2004, as the authority of the newly elected Parliament will be recognized no earlier than April.

During this reporting period, IRIS worked on the following issues under Task 4:

1) Constitutional issues:

- a) Constitutional amendments were critical during the reporting period as a result of the change in government. Much of the discussion in political circles involved amendments providing for changes in the government system by creating a Cabinet of Ministers, changing the powers of the President and Parliament, etc. IRIS staff members took an active role in a number of events. The constitutions of about 15 countries were analyzed by IRIS attorneys and informative summaries prepared. These summaries covered such urgent constitutional issues as the functions of the Head of the State and his/her relation to the Government, staffing of the Government, relations between the Government and Parliament, regulations and mechanisms for their dismissal, legislative proceeding, etc. These documents are available on IRIS Georgia's web page http://www.iris.ge/docs/translations/const_research.zip. Intensive work on constitutional amendments will continue during the next quarter.
- b) IRIS staff members also studied Georgian legislation with regard to the state of emergency and international practice. This issue is vague both in Georgia and abroad. The lack of specificity resulted in detailed research of Georgian and foreign laws. The part of the research analyzing Georgian legislation has been prepared. Intensive work on the research will continue.

2) Draft Law on the Protection of Personal Data

The draft law prepared by IRIS was translated and is ready for delivery to experts for opinion and comment. IRIS staff continues to work on improving the draft.

3) Draft on State Secret

As noted in previous quarterly reports, IRIS prepared a critical opinion on the Ministry of Security's Draft State Secrets legislation. As a result, the draft was suspended and has been inactive. If the above issue is raised again after parliamentary elections, IRIS will continue its work in this area.

Task 5: Information and Training

IRIS enhanced its monthly electronic newsletter, *Inside IRIS Georgia*, which features news updates and stories from IRIS and its partners/grantees. Newsletters are distributed via e-mail to USAID, IRIS partners and other interested organizations and individuals in Adobe Acrobat PDF. Three issues of the newsletter have been published during the quarter and are available for download from our website: <http://www.iris.ge/en/resources.html>.

The IRIS Georgia website is updated on a regular basis. During the reporting period, two important texts were posted on the web – electronic versions of the Georgian translations of Andras Sajo's book *Limiting Government: an Introduction to Constitutionalism* and Herman Schwartz's book *The Struggle for Constitutional Justice in Post-Communist Europe*. Three chapters of Keir Starmer's book *European Human Rights Law* are available on the web as well. These chapters address some of the most pressing issues for Georgia including modern European standards on the pre-trial stage of criminal investigation, fair trial guarantees in criminal cases, and police powers. The website is available at: <http://www.iris.ge>.

IRIS continued working on a commentary on the Constitution's judiciary-related chapter, and started a commentary on the Constitution's human rights chapter.

GYLA Library

GYLA purchased 62 books for their Tbilisi and regional offices. Librarians are adding the new additions to the library's electronic database. In the near future, GYLA plans to link the library database to its web page, so that the public has access to library holdings. GYLA also subscribes to the Westlaw International electronic database. Approximately 50-55 people used this resource in the Tbilisi office library every day and 255 readers used the Kutaisi office's library.

Publications

IRIS started distributing the Georgian translation of Herman Schwartz's book *The Struggle for Constitutional Justice in Post-Communist Europe*. Libraries, NGOs, courts, public agencies, lawyers and other interested readers received more than 400 copies of the book free of charge.

IRIS completed the Georgian translation and publication of Andras Sajo's book *Limiting Government: an Introduction to Constitutionalism*. Publication of this book was very timely given debates about changing the constitutional model of the government. The book stresses the experience and challenges of constitutionalism in post-communist countries. It contains a relevant theoretical discussion. The book will be read with great interest, not only by lawyers and students, but by politicians and journalists as well. IRIS has received very positive responses from readers. We believe this publication is one of the most valuable inputs from IRIS in building Rule of Law in Georgia.

IRIS collected comments from participants on the minutes from the Bakuriani conference on Constitutional Court legislation and practice. The text of the brochure will be finalized and printed during the next quarter.

Constitutional Commentaries

Commentary on Judiciary-related chapter of the Constitution

IRIS Georgia hired a Georgian expert to write a commentary on Chapter 5 (Judicial Power) of the Constitution. After receiving the first 90 pages of commentary, the consultant suffered a number of personal problems that resulted in a work stoppage until mid-December, by which time the government had changed. In consultation with this expert, IRIS has decided to wait until the current political environment is more settled before continuing this endeavor, as Chapter 5 may be substantially revised by Constitutional amendment.

Commentaries on the human rights chapter of the Constitution

IRIS's grant agreement with the Institute of Law was signed for the purpose of:

- a) preparation and publication of commentaries on the Constitution of Georgia;
- b) arrangement of roundtables to discuss the commentaries, and
- c) enhancement of the library and reading room capacity for the legal community.

a) A team of authors from the Institute of Law started preparing fundamental commentaries on the human rights-related provisions of the Georgian Constitution. Articles of the Constitution were shared among 4 legal experts (Giorgi Khubua – Introduction, Articles 14, 16, 28, 29, 38, 39, 41, 44; Konstantin Korkelia - Articles 19, 20, 22, 24, 26, 27, 36, 47; Levan Izoria – Articles 21, 25, 30, 32, 33, 34, 35, 37; Konstantin Kublashvili – Articles 15, 17, 18, 23, 40, 42, 45, 46).

During the quarter, Giorgi Khubua prepared an introduction to the commentaries, which consists of the following parts (40 pages):

1. Essence of human rights and history of constitutional development;
2. Functions of human rights – *status negativus*; *status positivus*; *status activus*;
3. Human rights as a measure for interpreting constitutional norms;
4. Human rights in a liberal state under the rule of law;
5. Functions of human rights protection;
6. Subjects of human rights; legal person and subjects of human rights;
7. Restrictive function of human rights;
8. Spheres of human rights;
9. Limits to interference to human rights, and
10. Human rights collision.

Konstantin Korkelia has worked on the right to privacy (Article 20), the right to marriage (Article 36) and freedom of religion (Article 19). Judicial practice of other states and the case law of the European Court of Human Rights have also been researched. Levan Izoria has completed work on Article 21 (right to property). Work on Articles 30 (right to work) and 32 (right to assistance to the unemployed) have begun. Konstantin Kublashvili has finished working on Article 17. Work on Articles 15 and 23 are nearly complete. Work on Articles 18, 40 and 42 is underway.

b) Under the grant agreement, the Institute of Law will hold 10 roundtable discussions over the course of 11 months with the legal community to expand and discuss topics presented in the commentaries. The Institute organized two roundtables in November and in December (at the Judicial Training Center). Konstantin Kublashvili gave a presentation on the Dignity of a Person: Article 17 of the Constitution of Georgia, and Levan Izoria presented on the Constitutional Understanding of the Right to Property. Experts from state agencies, including judges from the general court and constitutional court, and non-governmental institutions (advocates, NGO representatives), as well as law students were attended.

At the roundtable led by Konstantin Kublashvili, several topics were of particular interests to the participants. Among them was the distinction made between understanding the dignity of a person based on constitutional law versus civil law. The civil law understanding may mislead courts and administrative agencies into incorrect interpretation of the constitutional right.

In his talk, Levan Izoria made it clear that the constitutional understanding of the right to property has not been well established in either the practice of the Constitutional Court or in legal scholarship. It seems that the civil law doctrine of property is dominant at present. Issues of expropriation and confiscation were of great interest to participants. There is confusion in the constitutional understanding of expropriation and confiscation. The principle of proportionality in interpreting constitutional rights of the individual was also discussed. Although the Constitutional Court frequently refers to this principle, it seems that the Court's understanding is ambiguous. Practical examples (judicial cases) given by participants were of great help in writing commentaries concerning the right to property.

The presentations made at the roundtable discussions, after considering participants' comments, will be published in Georgian periodicals. Commentaries concerning the dignity of a person have been accepted and will be published in the journal *Freedom*, published by the Liberty Institute, by the end of January 2004. Commentaries concerning the rights to property will be submitted to the journal *An Individual and the Constitution* (to be published in the first quarter of 2004).

c) Enhancement of library and reading room capacity of the Institute: The funding for renovating the reading room was obtained from non-IRIS sources. Upon completion of the renovation (approved by IRIS), the Institute received funding from IRIS to purchase furniture to enhance visitors' access to legal materials. The purchase was delayed, because the State Treasury temporarily refused to grant any funds, as they expected legislative changes. The Institute is formally a branch of the Academy of Science with financial operations that go through the State Treasury. If by January 2004 this problem is not resolved, IRIS will work on an alternate mechanism of financing the Institute's needs under the grant agreement.

Other Activities

IRIS staff attorneys continued providing necessary legal information and consultations to different media agencies and journalists. In particular, intensive cooperation was established with the journalists of the Imedi TV show *Your Choice*. Four one-hour meetings were held with the team of this show during the reporting period. IRIS also supplied relevant laws and legal publications to the team. Before and after the November 2 elections, political rights of citizens (right to participate in elections, right of assembly, and freedom of speech) were of particular interest to the public and the media. IRIS attorneys provided high quality information and consultation by participating in TV shows of various channels (First Channel, Rustavi 2, Imedi TV, Channel 9, Mze, Iberia) and by providing comments to journalists from newspapers (Resonance, 24 Hours) and radio (Radio Liberty).

At the invitation of the NGO "Victims of Political Repressions," an IRIS attorney attended a meeting of more than 70 elderly citizens and explained to them their constitutional rights before and during elections.

List of Deliverables:

Deliverables in electronic format

1. List of participants of two roundtable discussions organized by the Institute of Law;
2. List of purchased books (GYLA).

Deliverables in hard copies

Andras Sajó's book *Limiting Government: an Introduction to Constitutionalism*

Task 6: Enforcement of Judgments

During the reporting period, IRIS planned assistance to the Department for the Enforcement of Court Judgments (DECJ) in drafting a new law on the enforcement of judgments. According to the agreement with the Department, the latter had to revise the draft based on the suggestions previously provided by IRIS. Subsequently, IRIS would organize a roundtable to finalize the draft. The Department failed to do its part due to political events. After the appointment of the new Minister of Justice, the head of the

Department was replaced. The Deputy Minister of Justice who is overseeing the Department contacted IRIS, expressed his willingness to continue cooperation with IRIS, and promised to come back with concrete requests by January 2004.